PEOPLE FOR
THE AMERICAN WAY
Your Voice Against Intolerance

STATE & LOCAL ANTI-GAY INITIATIVES & LEGISLATION REPORT

SEPTEMBER 1995

Religious Right groups are continuing to gain support for anti-gay activities around the country. Though few anti-gay bills have passed this year in state legislatures, Religious Right leaders are unswayed. A group in Maine succeeded in placing an anti-gay measure on the statewide ballot for November 1995, and collection of signatures for four statewide anti-gay initiatives for the November 1996 ballot in Oregon will begin shortly. Groups in Idaho and Washington are gathering signatures for new statewide anti-gay ballot initiatives, and in Broward County, Florida, an anti-gay campaign is underway to repeal a measure adopted in June. Pro-gay rights measures were repealed in Cincinnati, Ohio, and Hillsborough County, Florida. In Merrimack, New Hampshire, a right-wing school board passed a policy that prohibits "encouraging or supporting homosexuality as a positive lifestyle alternative." And in Des Moines, Iowa, Religious Right activists defeated a 12-year incumbent school board member who came out as a gay man.

Earlier this year, a Utah bill prohibiting legal recognition of same-sex marriages was passed and signed into law. Similar measures were introduced in Alaska and South Dakota. Such measures are an attempt to pre-empt a Hawaii state court ruling, expected in 1996, that could legalize gay marriage in that state, thus compelling other states, in the absence of such legislation, to recognize those marriages. Bills attempting to prevent gay men and lesbians from adopting children or becoming foster parents were introduced in Nebraska, Washington and California, although the District of Columbia Court of Appeals and a state appeals court in Illinois ruled that lesbians and gay men may adopt children together in those jurisdictions. The Wisconsin Supreme Court also ruled that the nonbiological parent of a boy may be granted visitation rights although her ex-partner, the boy's biological mother, is seeking to deny her those rights. The boy's biological mother has requested an injunction in a U.S. District Court.

In May, gay rights supporters suffered a major loss in the fight to preserve legal civil rights for gay men and lesbians. A U.S. Court of Appeals declared constitutional and reinstated Issue 3, an anti-gay ballot initiative passed in Cincinnati in 1993. The initiative had been declared unconstitutional by a district court judge last year. The case is being appealed to the U.S. Supreme Court, where a legal battle over the anti-gay initiative Amendment 2, passed in Colorado, will be heard in October.

Under pressure from the Christian Coalition and the American Family Association and other Religious Right groups, the Texas House of Representatives in May voted 70-68 to reject a bill that included gays and lesbians in a list of those covered by the state's hate crimes bill. Current law covers offenses based on "bias or prejudice" without stating what categories

2000 M Street NW
Suite 400
Washington DC 20036

202 467 4999
202 293 2672 / Fax

are included. The Massachusetts House approved legislation that would amend the state's hate crimes law to include crimes based on sexual orientation or disability. Classifying gay bashing as a hate crime will make it easier to prosecute such cases, activists say. In May, Rhode Island passed civil rights legislation prohibiting discrimination against gays and lesbians in credit, housing, employment, and public accommodations. Rhode Island becomes the ninth state to pass a gay civil rights law, after Wisconsin, Minnesota, Massachusetts, Connecticut, Vermont, New Jersey, California, and Hawaii.

Rhode Island, Minnesota, and Massachusetts are all now in the position of having laws both protecting gays and lesbians from discrimination and punishing private, consensual same-sex acts. After five states and the District of Columbia saw sodomy laws repealed or struck down over the last several years, Louisiana and Rhode Island sodomy laws were upheld within a month of each other this year by those states' Supreme Courts. Louisiana, Georgia, Montana, Oklahoma and Tennessee are currently facing challenges to their state sodomy laws.

Fighting anti-gay activity requires cooperative action and information-sharing among mainstream and progressive organizations in each state. People For the American Way has convened broad-based networks in 17 states nationwide. In addition, *Hostile Climate 1994*, People For's 83-page annual report documenting anti-gay incidents nationwide, is available from People For's Washington office for $10.95/copy for non-members and $8.95/copy for members (sorry, pre-paid mail orders only). *Hostile Climate 1995* will be published at the end of the year. For more information, contact Alison Streit, who has succeeded Rachel Gorney in the Research Department at People For the American Way, at (202) 467-2338.

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COLORADO

Oral arguments will be heard on October 10 in the U.S. Supreme Court in the legal challenge to Amendment 2, the statewide anti-gay initiative passed by voters in 1992. After much deliberation, the Clinton administration decided against filing an *amicus* brief in the case. In early June, U.S. Attorney General Janet Reno asserted that the Justice Department's decision not to get involved had nothing to do with politics, but was based on the absence of any federal issue in the case.

In October 1994, the Colorado State Supreme Court ruled Amendment 2 to be unconstitutional, reaffirming a district court's ruling that the state has failed to show any "compelling interest" to justify the amendment. Colorado Governor Roy Romer (D) and State Attorney General Gale Norton are appealing the case. If upheld, Amendment 2 would bar the state and any locality from extending anti-discrimination protections to gay men and lesbians.

The state of California, joined by Alabama, Idaho, Nebraska, South Carolina, South Dakota and Virginia, has submitted a brief in support of Amendment 2. The state of Oregon, joined by the states of Iowa, Maryland, Massachusetts, Minnesota, Nevada, and Washington and

the District of Columbia, has submitted a brief opposing Amendment 2. Others opposing the amendment include the American Bar Association and several state bar associations, the American Federation of State, County and Municipal Employees, AFL-CIO (AFSCME), the National Education Association (NEA) and the American Federation of Teachers, AFL-CIO (AFT), the American Psychological Association and the National Association of Social Workers, People For the American Way and various national religious, civil rights, disability, lesbian and gay, and women's organizations.

Colorado for Family Values (CFV), the Religious Right organization that instigated Amendment 2, has meanwhile been active in promoting its "Resolution for Community Standards." The resolution states that "Homosexuality is not morally, ethically, or legally equal to heterosexuality" and calls for the preservation of the traditional nuclear family as the best way to combat violent crime. CFV originally intended to work to pass the resolution in five counties in Colorado but encountered opposition from officials and decided against pushing for referenda. Still, the organization continues to circulate the resolution in an effort to shape public debate and public policy.

∇ Legal contact: Lambda Legal Defense and Education Fund, 666 Broadway, 12th Floor, New York, NY 10012; (202) 995-8585 Attn. Suzanne Goldberg

FLORIDA

Alachua County

The legal challenge filed in the Florida Circuit Court by gay and lesbian rights advocates against Amendment 1, one of two anti-gay initiatives approved by county voters in November, is moving ahead. A local Religious Right group, Concerned Citizens of Alachua County, led the campaign to place the initiatives on the ballot. In March, the National Legal Foundation, a Religious Right group headed by Robert Skolrood, joined in the lawsuit to defend Amendment 1.

The measure would amend the county charter to prohibit the county government from ever again passing any ordinance protecting people from discrimination based on sexual orientation. The other initiative approved in November repeals protections against anti-gay discrimination passed by the Alachua County Commission in April 1993. There is no legal challenge to the repeal initiative.

A hearing on a procedural motion to clarify the legal complaint against Amendment 1 was held on June 2. The defendants, those that support Amendment 1, have responded to the complaint and the case is proceeding.

∇ Legal contact: Lambda Legal Defense and Education Fund, 666 Broadway, 12th Floor, New York, NY 10012; (212) 995-8585 Attn. Suzanne Goldberg

Broward County

On June 13 the Broward County Commission approved, by a 6-1 vote, an amendment to the county's human rights ordinance providing anti-discrimination protections in employment, housing and public accommodations based on sexual orientation. In response, Religious Right leader Ralf Stores of the American Family Association (AFA) has launched a petition drive to force a referendum to repeal the measure. He is calling the effort "Take Back Broward" (similar activities by AFA leader David Caton in Tampa in 1992 were called "Take Back Tampa"). Take Back Broward must collect 46,000 signatures to qualify their measure for the November 1996 ballot.

A public education campaign called "Decline to Sign," an attempt to counteract the signature gathering activities of Take Back Broward, will begin on September 7.

Five years ago, 59 percent of Broward's voters rejected a gay-rights measure.

∇ Local contact: Carole Benowitz, PFLAG Gulf Region Director, 683 Pelican Way, Del Ray Beach, FL 33483; (407) 272-1634

∇ Local contact: Americans For Equality PAC, PO Box 4984, Fort Lauderdale, FL 33338; (305) 763-1331 Attn. Dean Trantalis

IDAHO

The Idaho Citizens' Alliance (ICA) has launched another campaign for a statewide anti-gay ballot initiative, called "The Family and Child Protection Act," to be placed before voters in November 1996. The new initiative is similar to the ICA's Proposition 1, which was narrowly defeated at the polls in November 1994. If passed, it would prohibit state or local laws from protecting gays and lesbians from discrimination. While Proposition 1 would have denied minors access to public library material concerning homosexuality, the new proposition requires minors to have parental consent or supervision to gain access.

The initiative was cleared by Idaho Attorney General Alan Lance on August 14 and the process of collecting signatures has officially begun. The ICA has until next July 5 to collect 41,335 registered voter signatures in order to put the initiative on the 1996 ballot. The organization is also collecting signatures for anti-abortion, pro-voucher, and anti-teachers' union initiatives.

Gay and lesbian rights supporters argue that Idahoans have already voted against legalized discrimination, and are determined to fight the ICA's new efforts. They are mounting a "Decline to Sign" campaign, an attempt to reduce the number of signatures gathered by the ICA. Public

opinion polls conducted by Boise State University show that support for anti-gay initiatives has been decreasing since 1993. Only 38 percent of voters polled this spring supported Proposition 1.

∇ State contact: No On 1 Coalition, P.O. Box 797, Boise, ID 83701; (208) 345-9736 Attn. Brian Bergquist or John Hummel

IOWA

Des Moines

Since coming out as a gay man in January, Jonathan Wilson, a 12-year incumbent school board member, has been the target of a sustained attack by Religious Right activists and was defeated in the September 12 election, placing fourth. The first- and second-place candidates were backed by the Religious Right group Concerned Parents of Des Moines. In addition, the Christian Coalition distributed 45,000 voter guides. Voter turnout was almost twice the highest previous turnout for a school board election in Des Moines. Anti-gay Religious Right activist Bill Horn spearheaded efforts to oust Wilson from the school board. He was joined by presidential hopeful Phil Gramm (R-Texas), who wrote to supporters of Horn's organization, The Report, about "the radical homosexual community" and "the threat that certain agendas may have in tearing down the very essence of our nuclear families."

Earlier this year, Horn, who co-produced the virulently anti-gay video "The Gay Agenda," organized a successful campaign against a proposal to promote sensitivity to gay and lesbian issues in the public school curriculum, at which time Wilson publicly acknowledged his homosexuality. Horn reportedly has been asked to testify about the "gay agenda" in the public schools at congressional hearings arranged by Speaker of the House Newt Gingrich (R-Georgia) and the Reverend Lou Sheldon of the Traditional Values Coalition.

∇ Local contact: Gay and Lesbian Resource Center, PO Box 7008, Des Moines, IA 50309; (513) 237-0285 Attn. Todd Ruopp

MAINE

Concerned Maine Families (CMF), the Religious Right group led by Carolyn Cosby, succeeded in gathering more than the 52,000 signatures required to qualify its statewide anti-gay ballot initiative for the November 1995 ballot. The initiative attempts to limit the anti-discrimination protections available under the state's Human Rights Act to race, color, sex, religion and age, thereby prohibiting the addition of any new classifications, such as sexual orientation. The initiative would also repeal an anti-discrimination ordinance in Portland that includes sexual orientation.

The Secretary of State validated CMF's petition signatures and forwarded the measure to the state legislature, which accepted a Judiciary Committee recommendation not to pass the measure, thus allowing it to appear on the November ballot.

The Maine Civil Liberties Union and Gay and Lesbian Advocates and Defenders filed a legal challenge to the initiative based on procedural grounds. On May 19, a Kennebec Superior Court judge ruled that the initiative language is valid and refused to strike it from the ballot. He also refused a request from CMF to amend the initiative's language to formally block the passage of future laws that provide protections for homosexuals. On July 26, the Maine Supreme Judicial Court affirmed the lower court's ruling allowing the initiative on the ballot.

The initiative was written by Virginia lawyer Bruce Fein, who has connections to right-wing groups that have backed anti-gay measures in other states and who once referred to the Bill of Rights as "vastly overrated." The Maine organization Coalition to End Special Rights (CESR), which reportedly has ties to the Religious Right groups Focus on the Family and the Family Research Council, is also organizing the anti-gay campaign. The Maine Council of Churches, the Maine Chamber of Commerce and Industry, Maine Governor Angus King, and more than 70 groups throughout the state are working to defeat the initiative.

∇ State contact: Maine Won't Discriminate, PO Box 11061, Portland, ME 04104; (207) 761-1788 Attn. Amy Pritchard

∇ Legal contact: Bernstein, Shur, Sawyer and Nelson, 100 Middle Street, PO Box 9729, Portland, ME 04101; (207) 774-1200 Attn. Patricia Peard

MASSACHUSETTS

Northampton

In June, one month after the City Council voted 8-0 (with one abstention) to approve a domestic partnership ordinance, a group called Northampton for Traditional Values (NTV) collected enough opposing signatures to place the ordinance on the November ballot. After the signatures were collected, the City Council had the option to rescind or reaffirm its earlier decision; it reaffirmed it 9-0, thus sending the ordinance to a referendum. It is the first time in at least 24 years that an ordinance approved by the city council has been placed on the ballot.

If the measure is approved by the voters, it will permit lesbian and gay and unmarried heterosexual partners to register at city hall. Once registered, domestic partners would have the right to visit each other in city-owned hospitals and jails; for couples with children, non-biological parents would be allowed to pick their children up at school, sign permission slips, and go to parent-teacher meetings. Given that Northampton does not have any city-owned hospitals or jails, the only relevant parts of the ordinance pertain to the schools.

Gregory Hession, attorney for the Religious Right legal organization the Rutherford Institute, sent a letter to the city council warning that the ordinance would encourage people to break Massachusetts' laws against sodomy, polygamy, adultery and fornication. He also wrote that "the ordinance redefines the family...[and] will also have a detrimental effect on the youth of the City of Northampton."

Three other Massachusetts cities and towns have domestic partnership ordinances: Boston, Cambridge, and Provincetown.

∇ Local contact: Northampton Domestic Partnership Coalition, PO Box 456, Northampton, MA 01061; (413) 584-1778 Attn. Laura Tilsley

NEW HAMPSHIRE

Merrimack

The right-wing-dominated Merrimack School Board voted 3-2 to ban instruction, counseling, or materials "encouraging or supporting homosexuality as a positive lifestyle alternative." The policy, which was proposed by the chairman of the school board, Chris Ager, would authorize the removal of all gay-themed books from school libraries and curricula and would prohibit the referral of students, even those contemplating suicide, "to an organization that affirms a homosexual lifestyle."

Outside the board meeting, 600 people attended a Vigil for the Victims of Gay Teen Suicide and Gay Teen Violence to call attention to the plight of gay and lesbian teens and the negative impact such a policy would have on an already at-risk group. Among the speakers at the vigil were state legislators, the president of New Hampshire P-FLAG, and the executive director of the Gay, Lesbian and Straight Teachers' Network. Hundreds of people also crowded inside the board meeting before the vote, both protesting and supporting the policy. Among those were several prominent members of the state Christian Coalition. Some Merrimack residents allege that the Christian Coalition, to which one Merrimack school board member has been linked, has made Merrimack the testing ground for its issues, since the New Hampshire presidential primary is only six months away.

A policy that would deny federal funding for any school programs promoting homosexuality was proposed at the federal level last year by Sen. Jesse Helms (R-NC) and Rep. Mel Hancock (R-MO) as an amendment to the reauthorization of the Elementary and Secondary Education Act. Though that amendment failed, an amendment did pass that forbids federal funds to be used to promote any sexual activity, homosexual or heterosexual.

∇ Local contact: Randy Kottwitz, Vigil for the Victims of Gay Teen Suicide and Gay Teen Violence, 27 Peaslee Road, Merrimack, NH 03054; (603) 889-4808

OHIO

Cincinnati

In a significant setback to gay and lesbian rights supporters, on May 12, the U.S. Court of Appeals overturned a district court ruling to reinstate Issue 3, the anti-gay ballot initiative passed in 1993. Issue 3 repeals the city's anti-discrimination protections and amends the city charter to prevent the future passage of any measures that would grant "minority or protected status" to gay men and lesbians. The Cincinnati City Council and the anti-gay group, Equal Rights Not Special Rights (ERNSR) are defending Issue 3. Former Attorney General Edwin Meese and former Supreme Court nominee Robert Bork have also joined in the case. Bork serves as co-counsel for ERNSR.

Last year, a U.S. district court judge ruled that the initiative infringes upon the political and civil rights of gay men and lesbians. However, the appeals court decision asserts that Issue 3 *does not* strip gay men and lesbians of their political rights because they are still allowed to vote. The ruling also states that homosexuals are defined by their conduct, and therefore, do not constitute an "identifiable class" in need of specific anti-discrimination protections. Robert Skolrood, head of the Religious Right group the National Legal Foundation, which helped draft Issue 3, praised the decision. He stated that gay rights "is the issue of the decade" and that "[w]e certainly don't want to bash gays, but we've got to be able to uphold the family." The Equality Foundation of Greater Cincinnati, Housing Opportunities Made Equal, and five gay people are the plaintiffs requesting review of the appellate court decision in the U.S. Supreme Court.

On March 8, the Cincinnati City Council voted 5-4 to delete the sections of the city's civil rights ordinance that provide anti-discrimination protections based on sexual orientation. Council member Dwight Tillery, who had previously expressed support for gay rights, provided the swing vote to repeal the measure. Phil Burress, the leader of the Religious Right groups Citizens for Community Values and the American Family Association of Ohio, celebrated the vote. Burress called the repeal "the right thing to do."

∇ Local contact: Equality Cincinnati, PO Box 271, Cincinnati, OH 45201-0271; (513) 221-5566 Attn. Nancy Minson

OREGON

In April, the Oregon Court of Appeals dealt a blow to the Oregon Citizens Alliance's (OCA) anti-gay crusade. The court upheld a state law passed in 1993 that prohibits localities from enacting city and county ordinances dealing with sexual orientation. The decision reaffirmed a Marion County Judge's ruling last year. Through the OCA's efforts, 26 localities throughout the state have passed anti-gay measures.

The OCA plans to once again attempt to pass a statewide anti-gay ballot initiative in November 1996. Eight anti-gay initiatives were drafted, all of which resemble Measure 13, last year's failed initiative. Four of the initiatives were approved for signature gathering by the state attorney general. Pending a state Supreme Court decision on the ballot titles, the OCA will begin collecting signatures.

∇ State contact: Basic Rights Oregon, PO Box 40625, Portland, OR 97240; (503) 222-6151 Attn. Julie Davis

UTAH

Salt Lake County

On July 19, the Salt Lake County Board of Commissioners considered a bill that would repeal the protected categories of sexual orientation and marital status, among others, in two ordinances prohibiting discrimination in county government employment and services. After discussion with Gay and Lesbian Utah Democrats, the board revised the bill to eliminate only marital status, not sexual orientation, as a protected category, and to restrict some employment benefits and services except where required by state or federal law. The ordinances will continue to prohibit discrimination based on sexual orientation, among other things, in county government employment and services. Benefits such as health care for same-sex partners may now be harder to obtain, according to activists.

∇ Local contact: Gay and Lesbian Utah Democrats, PO Box 11311, Salt Lake City, UT 84147-0311; (801) 238-2526 Attn. David Nelson

WASHINGTON

Two statewide Religious Right groups are campaigning to qualify their anti-gay Initiatives, 166 and 167, for the November 1996 ballot.

The Washington Committee for Equal Rights, Not Special Rights (WCERNSR), which sponsored last year's proposed statewide anti-gay Initiative 608, is currently gathering signatures for an identical measure, Initiative 166. WCERNSR is headed by Robert Larimer, who is also a spokesperson for the Washington Traditional Values Coalition (TVC), supported by the national TVC, led by the Rev. Lou Sheldon. In April, anti-gay crusader Kevin Tebedo, head of Colorado For Family Values and architect of Colorado's Amendment 2, toured Washington on behalf of WCERNSR to drum up support for Initiative 166.

The Citizens Alliance of Washington (CAW), which sponsored last year's proposed anti-gay Initiative 610, is gathering petition signatures for Initiative 167, entitled the "Responsible Adoptions Act." The measure aims to "stop the adoption of minor children to all person(s) who

practice homosexuality." CAW also attempted to pass its adoption proposal legislatively, but the bill was shelved.

CAW and WCERNSR must gather 181,667 valid signatures for each initiative by December 1995. If they do, they will submit the signatures to the state legislature for review in January 1996. The legislature will then have the option to enact the measures into law, write competing initiatives, or allow the initiatives to appear on the November 1996 ballot.

The Hands Off Washington campaign against the anti-gay initiatives is now circulating a non-legislative petition called the Northwest Pledge, an affirmation of fairness and opposition to discrimination. Since mid-July, 40,000 citizens have signed the Pledge.

∇ State contact: Hands Off Washington/Washington Citizens for Fairness, 1202 E. Pike, Ste. 532, Seattle, WA 98122, (206) 323-5191 Attn. Lois Canright or Kelly Evans

∇ Legislative contact: The Privacy Fund, 1202 E. Pike, Seattle, WA 98122; (206) 292-2486 Attn. Sheila Stickel

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To report a local or state conflict, to receive more information on anti-gay efforts covered in this report, or to request technical or legal assistance, please contact Alison Streit at People For the American Way, (202) 467-2338. The information in this report was obtained from national and grassroots organizations, activists, and media, including the following:

∇ *The Human Rights Campaign Fund, 1101 14th Street, NW, #200, Washington, DC 20005; (202) 628-4160*

∇ *The National Gay and Lesbian Task Force, 2320 17th Street, NW, Washington, DC 20009-2702; (202) 332-6483*

∇ *Parents, Families and Friends of Lesbians and Gays, 1012 14th Street, NW, # 700, Washington, DC 20005; (202) 638-4200*